

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO: 1:23-cv-21065-ALTONAGA/Damian

JONATHAN CONDE, on behalf of herself
and all others similarly situated,

Plaintiff(s),

v.

CJD OF 152nd ST MIAMI LLC d/b/a
CRAB DU JOUR,

Defendant.

_____ /

**JOINT MOTION TO EXTEND DEADLINE TO AMEND
PLEADINGS AND JOIN PARTIES**

Plaintiff, JONATHAN CONDE (“Plaintiff”), and Defendant, CDJ OF 152nd ST MIAMI LLC d/b/a CRAB DU JOUR (“Defendant”), by and through undersigned counsel, file this Joint Motion to Extend Deadline to Amend Pleadings and Join Parties, as follows:

I. INTRODUCTION

On May 1, 2023, this Honorable Court entered its Scheduling Order requiring the Parties to file all motions to amend pleadings or join parties by no later than June 12, 2023. *See* D.E. 17. Plaintiff propounded written discovery to Defendant on May 1, 2023. Plaintiff has since provided an extension of time for Defendant to respond to written discovery and is scheduled to depose defense witnesses on June 23, 2023. The Parties are currently conferring on potential amendments to Plaintiff’s operative Complaint based on newly discovered information. However, Defense Counsel will soon be out of the country for a period of approximately 15 days (May 25, 2023, though June 9, 2023). In order for the Parties to continue their conferrals to reach agreement on the scope of any such amendment, it is respectfully requested that the Court extend the deadline to amend pleadings and join parties to June 30, 2023. The Parties do not anticipate that this requested extension of time will alter any other current deadline within the Court’s Scheduling Order. The Parties are otherwise in full compliance with all other requirements set forth within D.E. 17. For the reasons set forth below, the Parties respectfully request that the Court grant the instant motion.

II. MEMORANDUM OF LAW

Under Fed. R. Civ. P. 16(b), “a schedule shall not be modified except upon a showing of good cause and by leave of the district judge or, when authorized by local rule, by a magistrate judge.” *See Davken, Inc. v. City of Daytona Beach Shores*, 2006 WL 1232819 (M.D. Fla. 2006) *citing* Fed. R. Civ. P. 16(b). Mere stipulation by the parties, absent approval by the court, does not constitute good cause required for modifying a scheduling order. *See, e.g., Hernandez v. Mario’s Auto Sales, Inc.*, 617 F.Supp.3d 488 (S.D. Tex. 2009). The Court has wide discretion in determining whether to grant an extension of time. *See Taylor v. Foremost McKesson, Inc.*, 656 F.2d 1029, 1033 (5th Cir. 1981); *American Key Corp. v. Cole Nat. Corp.*, 762 F.2d 1569, 1576 (11th Cir. 1985).

Good cause is present to extend the deadline to amend pleadings and join parties. Plaintiff has been diligent in seeking relevant discovery and requesting deposition dates to obtain any necessary information to support amendment or joining of additional parties. The Parties have initiated conferrals on the potential for amendment and agreed that additional conferrals will assist hopefully reaching agreement on the scope of any such amendment. However, Defense Counsel will be out of the country for a period of approximately 15 days starting later today. Defense Counsel intends to return on the eve of the deadline to amend pleadings and join parties. Accordingly, the Parties respectfully request that the Court extend the deadline to amend pleadings and join parties through June 30, 2023. This request is made jointly in good faith and not for any improper purpose.

II. CONCLUSION

WHEREFORE, Plaintiff, JONATHAN CONDE, and Defendant, CDJ OF 152nd ST MIAMI LLC d/b/a CRAB DU JOUR, respectfully request an Order extending the deadline to amend pleadings and join parties through June 30, 2023, and entering any and all such further relief as may be deemed just and appropriate under the circumstances.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(3)

Pursuant to S.D. Fla. L.R. 7.1(a)(3), prior to the filing of the instant motion, the Parties conferred regarding the relief sought herein and jointly seek the relief sought.

Dated this 25th day of May 2023.

Respectfully Submitted,

**MCLUSKEY, MCDONALD &
HUGHES P.A.**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document was served on all parties listed via CM/ECF
on May 25, 2023.

By: /s/ Jordan Richards

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SERVICE LIST

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